

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

KASEY S. BUECHEL,

Plaintiff,

Case No. 22-cv-589-pp

v.

KILOLO KIJAKAZI,

Defendant.

**ORDER GRANTING PLAINTIFF'S MOTION FOR LEAVE TO PROCEED
WITHOUT PREPAYING THE FILING FEE (DKT. NO. 3)**

The plaintiff has filed a complaint seeking judicial review of a final administrative decision denying her claim for disability insurance benefits under the Social Security Act. Dkt. No. 1. She also filed a motion for leave to proceed without prepaying the filing fee. Dkt. No. 3.

To allow the plaintiff to proceed without paying the filing fee, the court first must decide whether the plaintiff can pay the fee; if not, it must determine whether the lawsuit is frivolous. 28 U.S.C. §§1915(a) and 1915(e)(2)(B)(i).

Based on the facts in the plaintiff's affidavit, the court concludes that she does not have the ability to pay the filing fee. The plaintiff indicates that she is not employed, she is not married, and she has no dependents she is responsible for supporting. Dkt. No. 3 at 1. The plaintiff has no monthly wages or salary, but she does receive \$265 per month in Dodge County FoodShare benefits. In addition, the plaintiff received a \$1,400 stimulus payment in March

2021. Id. at 2. The plaintiff's only listed monthly expense is \$265 for other household expenses (presumably grocery expenses covered by her FoodShare benefit). Id. at 2-3. The plaintiff owns a 2007 Kia Sorento, worth approximately \$1,200; she does not own her home or any other property of value; and her checking account is overdrawn by \$162. Id. at 3-4. The plaintiff states, "I am currently experiencing homelessness and am staying in a camper owned by my mother. My daughter and mother cover my monthly expenses since I do not have any income and my savings and checking accounts are overdrawn." Id. at 4. The plaintiff has demonstrated that she cannot pay the \$350 filing fee and \$52 administrative fee.

The next step is to determine whether the case is frivolous. A case is frivolous if there is no arguable basis for relief either in law or in fact. Denton v. Hernandez, 504 U.S. 25, 31 (1992) (quoting Nietzke v. Williams, 490 U.S. 319, 325 (1989); Casteel v. Pieschek, 3 F.3d 1050, 1056 (7th Cir. 1993)). A person may obtain district court review of a final decision of the Commissioner of Social Security. 42 U.S.C. §405(g). The district court must uphold the Commissioner's final decision as long as the Commissioner used the correct legal standards and the decision is supported by substantial evidence. See Roddy v. Astrue, 705 F.3d 631, 636 (7th Cir. 2013).

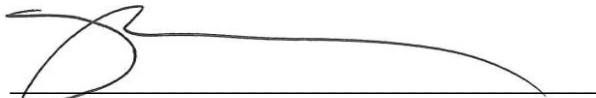
The plaintiff's complaint states that she is appealing a decision by the Commissioner to deny her benefits. Dkt. No. 1 at 1. The complaint alleges that the plaintiff is disabled and that the conclusions and findings of fact by the Commissioner when denying benefits are not supported by substantial

evidence and are contrary to law and regulation. Id. at 2. At this early stage in the case, and based on the information in the plaintiff's complaint, the court concludes that there may be a basis in law or in fact for the plaintiff's appeal of the Commissioner's decision, and that the appeal may have merit, as defined by 28 U.S.C. §1915(e)(2)(B)(i).

The court **GRANTS** the plaintiff's motion for leave to proceed without prepaying the filing fee. Dkt. No. 3.

Dated in Milwaukee, Wisconsin this 18th day of May, 2022.

BY THE COURT:

A handwritten signature in black ink, appearing to be 'P. Pepper', written over a horizontal line.

HON. PAMELA PEPPER
Chief United States District Judge